IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 33046 of 2007(H)

PETITIONER:

P.P.PRABHAKARAN, AGED 65,
S/O.LATE V.P.PARAMESWARN,PAPPALIL VIDYABHAVAN
P.O. MULAMTHURUTHY, ERNAKULAM DIST.

BY ADV. SRI.C.P.UDAYABHANU

RESPONDENTS:
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1. STATE OF KERALA,REPRESENTED BY
SECRETARY TO GOVT. HOME DEPARTMENT,
GOVT.SECRETARIAT,
THIRUVANANTHAPURAM.

2. SUB INSPECTOR OF POLICE
MULAMTHURUTHY POLICE STATION, MULANTHURUTHY.

3. KRISHNAN KUTTY, AGED 55,
S/O.KARTHYAYANI AMMA, THEKKEKUNNUPARAMBIL HOUSE
PERUMPILLY.

4. REGHU, AGED ABOUT 40,S/O.JANAKIAMMA
CHETTIKKUNNEL HOUSE, PERUMPILLY.

5. P.T.BABU, AGE 48,S/O,.THEVAN
CHIRAKKALPARAMBIL HOUSE, PERUMPILLY.

BY GOVT. PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 33046 OF 2007-H

Dated 7th November, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner has approached this Court, praying for a direction to the 2nd respondent Sub Inspector of Police, Mulanthuruthy Police Station, to provide protection to his life and property and also to complete the construction of a boundary wall without any hindrance from respondents 3 to 5, who are his neighbours. The petitioner is in possession of 1 acre and 82.5 cents of land in R.S.No.379/5 of Parumpilly desom, Mulanthuruthy Village, Kanayannur Taluk. The respondents 3 and 4 are the neighbours on the southern side of his property and the 5th respondent is the neighbour on the eastern side. On the southern side there is a pathway having a width of 3.75 ft. In the absence of the petitioner, the party respondents have widened it to 8 ft, by encroaching into his property. The petitioner wanted to construct a compound wall for his property to prevent encroachment. But, the same was obstructed by the 5th respondent, demanding a pathway on the

eastern side of the property also. So, the petitioner filed Ext.P1 complaint before the 2nd respondent, to enquire into the encroachment and widening of the pathway. Though, the 2nd respondent convened a conference of the parties, the dispute could not be settled. The petitioner moved the Taluk Surveyor for measuring his property and demarcating the boundaries. He submits, with notice to the neighbours, the Taluk Surveyor measured the property and furnished Ext.P3 sketch. He also fixed the survey stones. When the petitioner started construction of the compound wall in accordance with the survey plan, the respondents 3 to 5 obstructed the same. They removed the survey stones laid by the Taluk Surveyor. So, the petitioner filed Ext.P4 representation before the police, seeking protection for construction of the compound wall for his property. When no action was taken by the police, he filed this writ petition seeking the aforementioned relief.

2. When there is a dispute regarding the construction of the compound wall between the petitioner and his neighbours, the police cannot be asked to assist the petitioner to erect the boundary according to his wishes. The matter can only be settled by a civil court and not by the police. Under this jurisdiction we cannot authorise the police to settle the dispute between the petitioner and his neighbours. Since the police do not

have any duty in this regard, this Court cannot issue any direction as prayed for by the petitioner. Accordingly, the Writ Petition is dismissed without prejudice to the contentions of the petitioner and his right to move the competent civil court for appropriate reliefs.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/